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In the Supreme Court of the United States

No. 486

OCTOBER TERM, 1961

BILL HERRON,

Appellant,

v.

PORTLAND STAGES INC., an Oregon corporation; GEORGE B. FOURIER and WILLIAM B. ROBINSON,

Appellees.

JURISDICTIONAL STATEMENT

On Appeal from the Supreme Court of the State of Oregon.

Appearing herein
In propria persona:
BILL HERRON,
c/o Western Oil Co.,
10443 N. E. Klickitat,
Portland 20, Oregon,
Appellant.

VERGEER, SAMUELS & CROOKHAM,
1027 E. Burnside
Portland 14, Oregon,
Attorneys for Appellees.

STEVENS-NESS LAW PUB. CO., PORTLAND, ORE. 1961

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JURISDICTIONAL STATEMENT

Appellant appeals from the Dismissal Order of the Supreme Court of the State of Oregon in the above Case there identified as No. 18-243 entered on July 11, 1961; and the Court of first instance, being the Circuit Court of Multnomah County at Portland Oregon there identified as No. 259-172, Dismissal Order issued by Judge Schwab on May 12, 1961, entered upon the Docket May 15, 1961.

Notice of Appeal from the Multnomah County Court to Supreme Court of Oregon received by the Multnomah County Clerk via mail June 9, 1961; opposing counsels also received service on copy of Notice of Appeal via mail June 9, 1961; Notice of Appeal perfected June 13, 1961 by personal presentation and filing with the Multnomah County Clerk Undertaking on Appeal, Designation of Records, and payment of $20.00 fee for the Supreme Court of Oregon; opposing counsels also received service on true copy of Undertaking on Appeal and Designation of Records via mail June 13, 1961.

Notice of Appeal from the Dismissal Order of the Supreme Court of the State of Oregon to Supreme Court of the United States filed in person with the Clerk of the Supreme Court of the State of Oregon August 10, 1961; the opposing counsels also received service on a true copy of Notice of Appeal to the Supreme Court of the United States via Special Delivery Mail with return receipt on August 10, 1961 at 4:10 P.M. as the return receipt card shows.

Appellant submits this Statement to show that the Supreme Court of the United States has Jurisdiction of the Appeal and that substantial Oregon State and Federal Constitutional Questions are presented.

The foregoing precise mention of dates and procedures of filing and service on opposing counsels are of great essence in this Case and in further relation thereto appellant cites Oregon Statutes 19.023; 19.030; 19.038; Chap. 558 Sec. 4-1959; and in further substantiation thereof has submitted a Certified Copy of the Docket

entries prepared by the Transcript Clerk of Multnomah County, State of Oregon and attached hereto as Appendix A.

To conclusively show herein appellant has filed his Appeals within the Statute time of 30 days after the entry of the Judgment appealed from, cites to wit:

Re: Court below, of first instance; Judge Schwab's Order of Dismissal entered May 15, 1961; Appeal to Supreme Court of Oregon entered by the Clerk of Multnomah County at Portland, Oregon on Tuesday, June 13, 1961; thus Appellant's Appeal was perfected on the 29th day.

Re: Appellate Court, Supreme Court of Oregon; the Justices issued their Order of Dismissal on Tuesday, July 11, 1961; Appeal to the Supreme Court of the United States entered by the Clerk at Salem, Oregon on Thursday, August 10, 1961; thus Appellant's Appeal was perfected on the 30th day, the last day.

OPINIONS BELOW

The Opinion and Order of the Supreme Court of the State of Oregon is not reported. A Certified Copy of that Court's Opinion and Order is attached hereto as Appendix B.

Two Opinions and Orders of the Court of first instance, Circuit Court of Multnomah County, State of Oregon, Judge Herbert M. Schwab presiding are not reported. A true copy of each Order Appellant was served with, the first dated May 8, 1961, entered on

the Docket May 9, 1961; the second and final Order Dated May 12, 1961 entered on the Docket May 15, 1961, are attached hereto as Appendix C and D respectively. Both Orders being practically identical, only that the second one dated May 12, 1961 mentions Plaintiff as in propria persona.

Pertinent and relevant to these two Orders of Judge Schwab is a verbatim message of Judge Schwab's Clerk, John Toran Jr., which was left on Appellant's automatic phone answering and recording service and is attached hereto as Appendix E.

The Docket enteries, Appendix A, shows that Judge Schwab requested the first Order entered May 9, 1961 "pulled," and simultaneously filed a letter dated April 30, 1961, he received from E. J. Arnold, one of Appellant's business associates, via Special Delivery mail the morning of May 2, 1961, the date set by Judge Schwab for a "conference" on the matters of this Case. The letter stating Appellant Herron could not be present inasmuch he was commuting between Washington and Illinois concerning matters in a Federal Court Case. Mr. Arnold's letter to Judge Schwab was in copious detail altogether too lengthy to insert herein as an Appendix; however it is included among the designated papers prepared by the Transcript Clerk for transmission to the Appellate Courts.

JURISDICTION

The full record of this Case since its inception shows that it has been through the lower Court; arbitrarily and prejudicially dismissed by that Court's own Motion without a Trial or Hearing; an abuse of Court discretion.

Thence through the Appellate Court, the Supreme Court of the State of Oregon; whereupon the Justices inadvertently acting upon the unsuspecting bold audacious effrontery of false pleadings, misrepresentations, misquotes, diffusing averments and evasions of the opposing counsels Vergeer, Samuels & Crookham concerning facts, issues, filing dates, and service of pleadings upon Plaintiff-Appellant. also dismissed this Case without Appellant having a Trial or Hearing.

Therefore the records show Appellant has been denied both his State and Federal Constitutional rights and privileges to petition the Government for redress of grievances.

The Jurisdiction of this Court is invoked under the securities, grants, liberties and guarantees as specifically set forth in the Constitutions of the United States and State of Oregon, particularly as related to the Bill of Rights of both Federal and State Constitutions, and are enumerated herein under Constitutional Provisions Involved.

QUESTION PRESENTED

The records show pronouncedly clear the outstanding essence of this Appeal is that, Appellant desires to settle his grievances through the processes and procedure of the laws of our American Jurisprudence, as established by the Inspired Founding Forefathers of this Republic of the United States of America in the Federal Constitution and Congress, and promulgated by the Supreme Court of these United States:—Therefore Appellant prays: May he have his day in Court to present his grievances before an impaneled jury of his own peersmen within the circuit of the Court of first instance?

CONSTITUTIONAL PROVISIONS INVOLVED

The Constitutional provisions involved are as follows:

(A) The U. S. Constitution, Article I, The Bill of Rights;—the right of the people peaceably to assemble, and to petition the Government for redress of grievances.

(B) U. S. Constitution, Article VII, The Bill of Rights; in suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved.

(C) Oregon State Constitution, Article I, Sec. 10, Bill of Rights; Justice To Be Open and Without Price—every man shall have remedy by due course of law for injury done him in his person, property, or reputation.

(D) Oregon State Constitution, Article I, Sec. 17, Bill of Rights: Trial by Jury in Civil Case. In all civil cases the right of trial by jury shall remain inviolate.

(E) Oregon State Constitution, Article VII, Judicial Department. Sec. 3 Actions at Law—Trials by Jury. In actions at law, where the value in controversy shall exceed $20, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of this state, unless the court can affirmatively say there is no evidence to support the verdict. Until otherwise provided by law, upon appeal of any case to the Supreme Court, either party may have attached to the bill of exceptions the whole testimony, the instructions of the court to the jury, and any other matter material to the decision of the appeal. If the Supreme Court shall be of the opinion, after consideration of all the matters thus submitted, that the judgment of the court appealed from was such as should have been rendered in the case, such judgment shall be affirmed, notwithstanding any error committed during the trial; or if, in any respect the judgment appealed from should be changed, and the Supreme Court shall be of the opinion that it can determine what judgment should have been entered in the court below, it shall direct such judgment to be entered in the same manner and with like effect as decrees are now entered in equity cases on appeal to the Supreme Court.

(F) Oregon State Constitution, Original Article VII, Sec. 6, Jurisdiction. The Supreme Court shall have jurisdiction only to revise the final decisions of the Circuit

Courts; and every cause shall be tried, and every decision shall be made by those judges only, or a majority of them, who did not try the cause or make the decision in the Circuit Court.

STATEMENT

As the Complaint filed in this Case shows, plaintiff-appellant's suit instituted against defendants in this action as the result of their vicious wanton unprovoked physical attack upon this appellant which caused him bodily injury that will forever be permanent; and which brought about another physical condition which at this date requires an urgent operation to relieve physical pain and distress, and for which an operation has now been scheduled.

Only a rudimentary examination need be made concerning the nature of the Pleadings filed by the defendants to conclusively determine they have used every possible means of disingenuous obsequious legal moves, and filing of ambiguous Pleadings and repeated Strike Motions endeavouring to thwart this Case coming to trial.

There could be only one plausible reason for such actions by counsels for the defendants, they absolutely do not have even a mere semblance of justifiable defense for their rash premeditated physical assault upon appellant; they being fully advised in the premise ample evidence is now and always has been in the hands of appellant to prove his allegations to a Jury Trial Court; therefore opposing counsels resort to such legal tactics.

Appellant believes it is pertinent fitting and proper

to reassert that opposing counsels have wilfully and purposely misquoted and misrepresented actual true facts of official record, thus they cease to be jurisprudential. They are outright acts of shyster kangaroo court debauchery performed in rank Promethean style right within the confines of an Appellate Court, the Supreme Court of the State of Oregon. Such acts of misquoting facts of record to a Court is an overt challenge and Rule 16 of the Oregon State Bar should be invoked.

The Brief, Supporting Motion To Dismiss, filed by defendant's counsels in the Supreme Court of Oregon is only one example of such misquotes to the Justices of that Appellate Court. The Certified Copy of Docket entries by appellant shows such.

Counsels for defendants averred to said Appellate Court service of the Motion To Dismiss appellant's Case was mailed to him; which conveyed the impression to the Justices of said Court appellant had defaulted through failure to respond to said Motion. Whereas the actual true facts are: appellant has evidence to show that counsels for the defendants were advised by attorneys opposing appellant in a Federal Court Case,—in which Herron was also appellant,—to alter their form of mailing service upon appellant Herron from regular mail service to Certified mail service with return receipt: the advising attorneys knowing at that time appellant Herron was constantly commuting in Eastern States relative to said Federal Case, therefore would not be in Portland to present the Notice of Arrival of Certified Mail which the postal carrier would

leave in his rural mail box. This the opposing counsels in this Case did; consequential results thereof appellant Herron did not receive the service in due time; as he would have if said service had been forwarded by regular mail as his associates in Portland could have provided sufficient means of answering to avoid a default.

With the foregoing facts and issues presented, and rebussicstantibus, appellant prays the causes of his Appeal be granted by this Court.

Dated this 6th day of October, 1961 at Portland, Oregon.

Respectfully submitted,

BILL HERRON,
Appellant in propria persona.

CERTIFICATE OF SERVICE

The undersigned, Bill Herron, the plaintiff-appellant herein acting as his own attorney appearing in propria persona does hereby certify: that in compliance with paragraph I of Rule 33 of Revised Rules of the Supreme Court of the United States, a copy of the foregoing jurisdictional Statement was placed in a sealed envelope properly addressed to Vergeer, Samuels & Crookham, 1027 E. Burnside, Portland 14, Oregon, and was forwarded via certified mail, return receipt requested and was deposited in the mail depository at the Main Branch Portland, Oregon, Post Office at Broadway and S. W. Glisan Street on this date.

That inasmuch appellant is not represented by counsel a member of the bar of the Supreme Court of the United States, he therefore will furnish proof of such service having been made by forwarding to the Clerk of the Supreme Court of the United States, the certified mail receipt together with its return receipt card immediately upon receipt of same from the recipient.

Dated this 6th day of October, 1961, at Portland, Oregon.

BILL HERRON,
Appellant in propria persona.

BILL HERRON
c/o Western Oil Co.
10443 N. E. Klickitat
Portland 20, Oregon
AL-4-2867

APPENDIX A

IN THE CIRCUIT COURT OF THE
STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

BILL HERRON,

Plaintiff

vs.

REGISTER No.
259-172

PORTLAND STAGES, INC., an Oregon corporation; GEORGE B. FOURIER, and WM. B. ROBINSON,

Defendants

DATE	LAW
19	
Sep 9 1959	Filed Complaint
Sep 16 1959	" Sum
Sep 22 1959	" Motions to strike
Jan 5 1960	" Motion strike motions
Jan 26 1960	ORED 1394/613 re motion
Feb 19 1960	Filed Amended Comp
"	" Notice
Feb 24 1960	" Motion to strike
May 9 1961	Order — / — Dismissing
	(Pulled at request of
"	Filed Letter to Judge Schwab
May 15 1961	Order 1462/425 Dismiss
Jun 13 1961	Filed Und. on Appeal
"	" Desig. of Record
"	" Notice of Appeal
Jun 19 1961	" Notice
Jul 7 1961	" Affidavit
"	Order / Strike
	Und. from files

STATE OF OREGON)
) ss.
County of Multnomah)

I, SI COHN, County Clerk and Ex-Officio Clerk of

the Circuit Court of the State of Oregon, in and for the County of Multnomah, hereby certify that the foregoing copy of the Circuit Court Register of the said cause in the above entitled court has been by me compared with the original, and the whole thereof, and contains each and every entry in said Register relating to said cause as the same appear of record in my office and in my care and custody.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court this 10th day of July, 1961.

SI COHN, County Clerk
By L. L. Fieber /s/
Deputy

APPENDIX B

BE IT REMEMBERED that at a regular term of the SUPREME COURT of the State of Oregon begun and held at the courtroom in the city of Salem on the first Monday, the 6th day of MARCH, 1961, WHEREUPON on this TUESDAY, the 11th day of JULY, 1961 the same being the 46th judicial day of said term, there were present:

Wm. M. McAllister, Chief Justice,
George Rossman, Associate Justice,
Harold J. Warner, Associate Justice,
William C. Perry, Associate Justice,
Gordon W. Sloan, Associate Justice,
Kenneth J. O'Connell, Associate Justice,
Alfred T. Goodwin, Associate Justice, and
F. M. Sercombe, Clerk,

when the following proceedings were had:

BILL HERRON, Appellant	)	
v.	)	Appeal from
PORTLAND STAGES, INC., an Oregon corporation, GEORGE B. FOURIER and WILLIAM B. ROBINSON, Respondents	)	MULTNOMAH County

The Court having duly considered respondents' motion to dismiss the above entitled appeal, and the Court being fully advised thereon,

IT IS HEREBY ORDERED that such motion be and the same hereby is allowed and the appeal dismissed.

IT IS FURTHER ORDERED that respondents

have and recover of and from appellant their costs and disbursements in this Court taxed at $30.

IT IS FURTHER ORDERED that this cause be remanded to the court below from which the appeal was taken with directions to enter an order in accordance herewith.

STATE OF OREGON,)
) ss.
County of Marion,)

I, F. M. SERCOMBE, Clerk of the Supreme Court of the State of Oregon, do hereby certify that the foregoing copy of Motion to Dismiss has been by me compared with the original and that it is a correct transcript therefrom, and of the whole of such original, as the same appears of record, and in my office and custody.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Salem, Oregon, August 8, 1961.

F. M. SERCOMBE
Clerk of Supreme Court, State of Oregon
by Wanda Miller /s/
Deputy

APPENDIX C

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

BILL HERRON, Plaintiff,	)	
vs.	)	
	)	No. 259-172
PORTLAND STAGES, INC., an Oregon corporation, et al, Defendants.	)	

ORDER OF DISMISSAL

IT APPEARING from the file in the above entitled cause that on April 14, 1961, per copy in the file, a notice was sent to counsel for plaintiff and counsel for defendants to appear in court on May 2, 1961 at 10:30 a.m. for a conference regarding the above entitled cause, and plainitff having failed to appear either in person or through counsel at the appointed time, counsel for defendants having appeared and indicated no objection to dismissal of said cause:

NOW, THEREFORE, IT IS CONSIDERED, ORDERED AND ADJUDGED that the above entitled cause be and the same is hereby dismissed on the Court's own motion for want of prosecution.

DATED: This 8th day of May, 1961.

s/ Herbert M. Schwab
CIRCUIT JUDGE

APPENDIX D

IN THE CIRCUIT COURT OF THE
STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

BILL HERRON, Plaintiff,	)	
vs.	)	
	)	No. 259-172
PORTLAND STAGES, INC., an Oregon corporation, et al, Defendants.	)	

ORDER OF DISMISSAL

IT APPEARING from the file in the above entitled cause that on April 14, 1961, per copy in the file, a notice was sent to plaintiff in propria persona and counsel for defendants to appear in court on May 2, 1961 at 10:30 a.m. for a conference regarding the above entitled cause, and plaintiff having failed to appear either in person or through counsel at the appointed time, counsel for defendants having appeared and indicated no objection to dismissal of said cause:

NOW, THEREFORE, IT IS CONSIDERED, ORDERED AND ADJUDGED that the above entitled cause be and the same is hereby dismissed on the Court's own motion for want of prosecution.

DATED: This 12th day of May, 1961.

s/ Herbert M. Schwab
CIRCUIT JUDGE

APPENDIX E

Verbatim message of Judge Schwabs' Clerk, John Toran Jr. which was left on appellant's automatic phone answering and recording service on Friday, May 12, 1961. I hereby Certify said verbatim message to be an exact true written reproduction of the verbal message said Clerk, John Toran Jr. left on my phone answering and recording service, and that it is whole and total sum of words thereon. The said message consuming (2) two spaces on said recorder, of ½ minute each.

TO WIT AS:—

Mr. Herron this is the Clerk for Judge Schwab calling and I am calling in connection with the order of dismissal which was entered in the case of Bill Herron versus Portland Stages Incorporated I wonder if you would call me on that case and our number here is CA 7 8441 extension 517 I will be here until about four thirty——

This is the Clerk for Judge Schwab trying to complete his call I say I will be here in the Court House until about four thirty If you like would you please call me by that time I mean before that time we are sending you a new order in that case one that was modified from the one that you now have you might compare it if you like and with the old order thank you.

Dated this 6th day of October, 1961, at Portland, Oregon.

BILL HERRON,
Appellant in propria persona.